

January 28, 1999

OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON
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COMBINED REPORT:

- A. DECISION ON PRELIMINARY PLAT APPLICATION;
- B. SEPA THRESHOLD DETERMINATION APPEAL DECISION; AND
- C. TRANSPORTATION CONCURRENCY REVIEW.

SUBJECT: Department of Development and Environmental Services File No. **L97P0020**
Department of Transportation File No. **96-03-05-01**

RAVENHILL

Preliminary Plat Application;
Appeal of Threshold Determination; and
Transportation Concurrence Review

Property Owner: Nadine Zackrisson - Pacific Properties
14410 Bel-Red Road
Bellevue, WA 98007

Location: Generally between NE 8th Street and Main Street at approximately
258th Avenue NE

Applicant: Pacific Properties, Inc., represented by
Robert Johns
Attorney At Law
701 Fifth Avenue #3600
Seattle, WA 98104-7081
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Appellant: Gregory R. Allan
530 – 254th Avenue NE
Redmond, WA 98053
Telephone: (425) 868-7804
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DDES:	Keri Akers (Plat) Land Use Services Division 900 Oakesdale Avenue SW Renton, WA 98055-1219 Telephone: (206) 296-6758 Facsimile: (206) 296-7051	Paul Wozniak (SEPA) Land Use Services Division 900 Oakesdale Avenue SW Renton, WA 98055-1219 Telephone: (206) 296-7163 Facsimile: (206) 296-7051
KCDOT:	Dick Etherington Transportation Planning Division King County Dept. of Transportation 821 Second Avenue MS 65 Seattle, WA 98104 Telephone (206) 689-4709 Facsimile (206) 689-4750	

SUMMARY OF DECISIONS:**Plat:**

Department's Preliminary Recommendation:	Approve, subject to conditions
Department's Final Recommendation:	Approve, subject to conditions (modified)
Examiner's Decision:	Approved, subject to conditions (modified)

SEPA:

Department's Preliminary Recommendation:	Deny appeal
Department's Final Recommendation:	Deny appeal
Examiner's Decision:	Appeal denied

Transportation Concurrency:

Department's Preliminary Recommendation:	Affirm previous determination
Department's Final Recommendation:	Affirm revised determination
Examiner's Decision:	Revised determination affirmed

PRELIMINARY MATTERS:

Application or petition submitted:	May 12, 1997
Complete application:	June 9, 1997
Notice of appeal received by Examiner:	July 2, 1998
Statement of appeal received by Examiner:	July 2, 1998

EXAMINER PROCEEDINGS:

Pre-Hearing Conference:	August 18, 1998
Hearing Opened:	October 12, 1998
Hearing Closed:	January 15, 1999

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES/TOPICS ADDRESSED:

- Access, vehicular
- Access, pedestrian
- Concurrency
- Cumulative impacts
- Traffic impacts
- Traffic safety
- Wetlands
- Downstream impacts
- Fees, school impacts
- Road design
- Road standards
- Schools
- Surface water conveyance
- Surface water drainage

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information.

Owner/Developer:	Nadine Zackrisson - Pacific Properties 14410 Bel-Red Road Bellevue, WA 98007
Engineer:	Hugh G. Goldsmith & Associates, Inc. 1215 - 114th Avenue SE Bellevue, WA 98004
Location:	Generally between NE 8 th Street and Main Street at approximately 258 th Avenue NE
STR:	35-25-06
Zoning:	R4-P (26 lots on 6.5 acres) RA5-P (30.8 acres of permanent open space)
Acreage:	37.3
Number of Lots:	26
Density:	The density for the urban portion of the site (6.5 acres) will be 4 units per acre. The density for the site overall (37.3 acres) will be approximately 1.4 units per acre.
Typical Lot Size:	Ranges from approximately 5,500 to 6,500 square feet
Proposed Use:	Detached single-family residences

Sewage Disposal:	Sammamish Plateau Water & Sewer District
Water Supply:	Sammamish Plateau Water & Sewer District
Fire District:	King County #10
School District:	Lake Washington
Complete Application Date:	June 9, 1997

2. **Proposal.** Pacific Properties (the "applicant") proposes to subdivide a 6.5-acre parcel, located within a 37.3-acre site that is designated as Urban R4-P, into 26 single-family residential building lots. The site is a part of the King County Four to One Program, a program applied at the boundary where designated urban and rural areas of King County meet. The program allows the applicant to achieve an economic urban density within the smaller portion of the property (in this case, 6.5 acres), by reserving as permanent open space the remaining larger portion (in this case, approximately 30.8 acres). Proposed lot sizes will range from approximately 5,500 to 6,500 square feet. When averaged with the permanent open space to be dedicated to King County, however, the density of the overall property would be approximately 1.42 acres per dwelling unit.
3. **SEPA Threshold Determination.** On June 9, 1998, the Department of Development and Environmental Services (the "Department", or "DDES") issued a Mitigated Determination of Nonsignificance (MDNS) for the proposed development of Ravenhill. That is, the Department published its determination, having reviewed all relevant environmental documents, that the development would not cause probable significant adverse impacts on the environment, PROVIDED that six environmental impact mitigating conditions are required as a condition of final plat approval or permit issuance. Those conditional requirements are stated on pages 2 and 3 of the Department's Preliminary Report to the Hearing Examiner (Exhibit No. 2), and in the Department's Threshold Determination (Exhibit No. 5). The mitigating measures address the following:
 - Assurance of equitable developer sharing of costs associated with access corridor development (several neighboring developers will be affected similarly);
 - A timing option for transportation mitigation payment system (MPS) fee payment if a new MPS fee is adopted for the access corridor before final plat recording;
 - Stream protection standards to be applied in order to protect water quality concerns for Patterson Creek (addressing, principally, low temperature maintenance and oxygen replenishment);
 - Assurance that any springs and seeps intercepted during site development will be, to the maximum extent practical, maintained as sub-surface sources to the Patterson Creek system;
 - A requirement for a groundwater protection plan, to be prepared by geotechnical consultant;
 - Geotechnical consultant monitoring of the site during grading in order to "identify seeps and tailor the plan as needed."

4. **SEPA Appeal.** Abutting property owner Gregory Allan (the "appellant") opposes the MDNS, arguing for an Environmental Impact Statement. Although the appeal touches upon a number of issues, the principal issues addressed, through testimony, evidence and argument, are these: Transportation, transportation concurrency, drainage, and school enrollment. As relevant facts are reported in the findings which follow, little distinction will be made regarding whether these findings apply to SEPA as opposed to preliminary plat approval; or, whether they apply to SEPA as opposed to transportation concurrency. Those differences will be sorted out through the application of review standards and burden of proof.

- a. **Drainage.** Appellant Allan seeks to prevent "diversion" of drainage from this plat into a County-owned drainage course which flows into a wetland which is shared by appellant Allan, Jerri Shinn, and the permanent open space portion of the subject property. He argues that both SEPA and drainage case law support this purpose. Allan argues that the drainage discharge system described in Finding No. 7, below, when considered in conjunction with applicable case law -- *Phillips v King County*, 87 Wn. App. 468, 490 (1997), *Cottell v Clallam County*, 58 Wn. App. 517, 521, 794 P.2d 513 (1990), *inter alia* -- not only will endanger the environmental and functional values of the ASR wetland (owned in part by Allan) but also will open the County to unnecessary civil liability.

While offering no specific response to Allan's legal analysis, the Department, "stands by its position that the drainage design of the Ravenhill plat meets [the discharge at natural location] requirement of the 1990 Surface Water Design Manual. Further, the Department's environmental scientist testified that the ASR wetland is linear, flowing from west to east; that the discharge pipe is located downhill and easterly from the Allan property; and, that there were no blockages in the wetland that would inhibit wetland drainage; and that therefore, no backwater effect occurs or will occur upon the Allan-owned portion of the ASR wetland.

- b. **Transportation.** Appellant Allan argues that approval of the Ravenhill proposal will constitute a *de facto* violation of the "100-Lot Rule" as stated in King County Road Standards (KCRS) Section 2.20.¹ The appellant argues that the record contains traffic

¹ KCRS 2.20 Access and Circulation Requirements. In order to provide a second access to a residential subdivision, short subdivision, binding site plan or planned unit development, no residential street shall serve more than 100 lots or dwelling units unless the street is connected in at least two locations with another street that functions at a level consistent with [KCRS Sections addressing] road types and geometrics for arterial roads and residential access streets.

A. Second access requirement may be satisfied through use of connecting a new street to an existing street in an adjacent neighborhood if:

1. No other practical alternative exists, or
2. Existing street was previously stubbed indicating intent for future access, or
3. An easement has been recorded specifically for said purpose.

The second access requirement may not be satisfied through use of an existing roadway network in the existing adjacent neighborhood if:

1. A more practical alternative exists, or
2. Existing streets do not meet Section 2.03 [road topology and geometrics for residential access streets].

analysis errors, that no cumulative impacts analysis was conducted (or that whatever analysis was conducted was faulty), and that seasonal fluctuations in new commercial golf course traffic has not been properly considered. In support of these arguments the appellant cites KCRS Section 2.20(A), a May 10, 1993 Zoning Adjustor's Report and Decision regarding the golf course, and KCC 20.24.195 (required examiner findings for preliminary plat).²

In addition to the 100-Lot Rule issues, appellant Allan also expresses concern regarding the impact of the proposed development upon the principal access street and the adequacy of pedestrian improvements along that street.

- c. **Transportation Concurrency.** Appellant Allan argues that the King County Department of Transportation ("KCDOT") issued concurrency certification for the proposed development based upon "faulty input and assumptions." He argues further that additional traffic through "failed" intersections and through over-capacity roads will negatively affect community mobility, quality of life, health, safety and property values. Finally, he argues that the NE 8th intersection projects necessary to meet minimum Level of Service (LOS) standards were not a part of the King County Capital Improvement Program (CIP) when concurrency certification was issued. It is argued that these flaws constitute reversible "technical error."
 - d. **School Enrollment Capacity.** The appellant's concerns regarding school enrollment capacity must be regarded as a subdivision review issue, not as a SEPA issue, because the appellant has no children enrolled in the school district at issue. The appellant thereby fails to establish appeal standing. That limitation notwithstanding, the appellant argues that school capacity (permanent plus temporary) will not be sufficient to satisfy state standards. He argues that King County ordinances cannot alleviate the impact.
 - e. **Environmental Checklist.** The appellant also raises concerns regarding the completeness of the Environmental Checklist, citing general alleged errors or omissions. See Conclusion No. 2.f.
5. **Departmental Recommendation.** The Department recommends that the SEPA threshold determination appeal be denied and that the proposed plat of Ravenhill be granted preliminary approval, subject to the 20 conditions of final plat approval stated on pages 10 through 20 of the Department's Preliminary Report to the Hearing Examiner dated October 12, 1998 (Exhibit No. 2); and subject, further, to the six MDNS required measures stated on pages 2 and 3 of that same report.

These provisions are not intended to preclude the state statute on landlocking.

B. This section does not preclude a commercial project from gaining access through a residential development. *Traffic impacts for such projects will be analyzed during the SEPA process.* [Italics added.]

² The KCC 20.24.195 required findings are similar to RCW 58.17.110 and require that "appropriate provisions" are made for the public health, safety and general welfare" for, among other things, streets or roads, alleys, other public ways as well as "sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school."

6. **KCDOT Review.** The King County Department of Transportation ("KCDOT") has taken into consideration the appeal issues and technical analysis offered by the appellant and his traffic engineering consultant. Having reviewed those concerns and having corrected or revised certain assumptions, KCDOT re-calculated the TAMs scores for affected street linkages and re-calculated its concurrency determination for the Ravenhill development proposal. Although some final numbers vary slightly, the Department's re-calculation and this hearing record contain no basis for retracting the original transportation concurrency determination and certification.
7. **Drainage.** Controlled stormwater drainage within the proposed subdivision will exit the 6.5-acre development site at its lowest elevation. From there, stormwater drainage will be channeled to a 30-foot-wide utility easement which extends along the west boundary of the 30.8-acre permanent open space portion of the subject property ("Tract F"; open space tract to be conveyed to King County). Across the most steep portions of that easement, a seamless high-density polyethylene ("Drisco Pipe") already exists, having been constructed to accommodate the neighboring Beaver Dam development. The capacity of this drainage course is not at issue. Rather, the appellant challenges the adequacy of review or analysis directed toward potential impacts upon a chain of inter-connected wetlands located upstream and downstream from the Drisco Pipe outfall. In particular, this appeal focuses upon the possible impact of the drainage outfall upon the "ASR" wetland, a wetland named after the three property owners which front upon it or own portions of it -- appellant Allan, Shinn, and Ravenholt (Ravenhill).

In plan view, maps and drawings of the vicinity suggest that there may be some merit in the appellant's expressed concern that the drainage outfall will affect that portion of the ASR wetland located upon Allan property. However, when topography lines are added, or a sectional view interpolated from those topography lines (see Exhibit No. 27), it becomes clear that such an impact could not occur. The outfall location, according to the topography of the vicinity in this hearing record, is located downstream from the Allan portion of the ASR wetland. Exhibit No. 27 shows a 25 to 30 foot drop in the ASR wetland elevation as it flows from the west edge of the Ravenhill site (at the disputed outfall location) to the east edge where it exits the Ravenhill site, flowing toward Patterson Creek.

Even if one does not include topographic analysis, two additional mitigating factors are evident:

- a. An intentional set of energy-dissipating, large rocks and boulders are purposefully arranged at the outfall location in order to prevent erosion, scouring, or adverse impacts in that area. Some sedimentation has been identified in the vicinity of the outfall. However, un rebutted expert testimony suggests that this sedimentation resulted from "during construction" upstream control measure failures of the past, not from continuing circumstances.
- b. To protect significant streams and wetlands in the Patterson Creek basin, King County has adopted a special P-suffix (site plan approval) zoning condition which applies to the subject property. The P-suffix conditions, in this case, include drainage standards that exceed normal requirements of the 1990 Surface Water Design Manual. These standards require that drainage facilities be designed to limit the release of flow at or below pre-development levels for all storm events up to the 100-year design storm. Further, the Design Manual requires that individual roof drains be infiltrated or dispersed within lot

areas whenever existing soil conditions allow, thus directing surface water into the upper soil layers. This practice simulates natural runoff conditions and minimizes the volume of water being discharged directly to downstream sensitive areas. When the final drainage plans are prepared, the applicant will be required to evaluate soil conditions in order to design the project in such a manner as to satisfy these requirements.

The drainage plan for Ravenhill calls for no diversion from one basin to another.

8. **Transportation/Access Corridor.** In support of his appeal, appellant Allan cites this examiner's conditional use permit denial of a conditional use permit for the Taiyo American Beaver Dam golf course, located along the same access corridor. The appeal, however, does not respond to these changes in circumstances:
 - a. Subsequent to the Taiyo American conditional use permit denial, the King County Council redesignated this access corridor from neighborhood collector to collector arterial.
 - b. Subsequent to the Council's redesignation of the access corridor, this examiner approved the Taiyo American golf course proposal.
 - c. The Taiyo American conditional use permit denial was based upon policy which no longer exists. In its place, the Council has adopted a specific regulatory amendment to the King County Road Standards (KCRS) that specifically directs the 100-Lot Rule toward residential traffic, not commercial traffic.
 - d. The golf course development and the Ravenhill development will each be required to make substantial pedestrian improvements, thereby resolving any pedestrian/vehicular concerns raised in this review.
9. **Transportation Concurrency.** The hearing record suggests that the original concurrency evaluation for the Ravenhill proposal did indeed contain some technical errors. As a result of the appeal, KCDOT revised its assumptions and modeling input. KCDOT incorporated several more "conservative" assumptions proposed or supported by the appellant. The end result of that analysis, however, nonetheless demonstrated concurrency within the standards adopted by King County.
10. **School Enrollment.** As the result of extended negotiations over several years, King County and the various school districts within the County agreed upon, adopted and established a public school capacity impact mitigation system. The core of that system is contained in KCC 21A.28, KCC 27.44 and KCC 21A.43. The system provides for significant authority for each school district to determine its own standards and impact fee structure. The enrollment projections and district plans are reviewed and adopted by the King County Council as a basis for requiring school enrollment impact fees for new residential developments. The system takes into account the broad variety of impact mitigating measures available to school districts in addition to imposing fees on new development. Redrawing school enrollment attendance boundaries provides the district with its most common solution. The temporary installation of portable classrooms sometimes also occurs. In this case, neighboring resident Allan essentially argues

against the district's own calculations, which indicate sufficient existing or planned capacity to meet projected growth for the next six years. Although the reliability of the school enrollment impact mitigation system agreed upon between King County and the various districts is challenged in this review, the hearing record shows no violation of the standards or procedures contained in this codified review system.

11. **Other Issues.** In addition to the primary issues discussed above, concerns have also been addressed regarding the unavailability of public transit as a traffic mitigating measure, inaccuracies contained in the Environmental Checklist, defensibility of the Department's Sensitive Areas Ordinance (SAO) Compliance Affidavit, vesting of the application, and wildlife habitat corridor. These issues are accurately and adequately addressed on pages 8 through 10 of the Department's Preliminary Report to the Examiner. See Finding No. 12, following.
12. **Department Report Adopted.** The facts contained in the Department's Preliminary Report to the Examiner dated October 12, 1998, are found accurate and incorporated here by this reference. Should this matter be appealed to the King County Council, copies of the Department's Report will be appended to those copies of this Examiner's Report which are forwarded to the Council.
13. **SEPA Review Standards; Burden of Proof.** Section D.6 of the Division's October 12, 1998 Preliminary Report to the King County Hearing Examiner (Exhibit No. 2) cites the scope and standard of review to be considered by the Examiner. The Division's summary is correct and will be used here. In addition, the following review standards apply:
 - a. WAC 197-11-350(1), -330(1)(c), and -660(1)(3). Each authorize the lead agency (in this case, the Land Use Services Division), when making threshold determinations, to consider mitigating measures that the agency or applicant will implement or mitigating measures which other agencies (whether local, state or federal) would require and enforce for mitigation of an identified significant impact.
 - b. RCW 43.21C.075(3)(d) and KCC 20.44.120 each require that the decision of the Responsible Official shall be entitled to "substantial weight". Having reviewed this "substantial weight" rule, the Washington Supreme Court in *Norway Hill Preservation Association v. King County*, 87 Wn 2d 267 (1976), determined that the standard of review of any agency "negative threshold determination" is whether the action is "clearly erroneous". Consequently, the administrative decision should be modified or reversed if it is:

...clearly erroneous in view of the entire record as submitted and the public policy contained in the act of the legislature authorizing the decision or order.
14. **Conclusions Adopted.** Any portion of the following conclusions which may be construed as finding are hereby adopted as such.
15. **Motion for Monetary Sanctions or Shift in Burden of Proof.** The appellant contends that KCDOT withheld information and provided information it knew to be inaccurate or obsolete. KCDOT denies any intention to mislead the parties and observes that it, too, was subjected to rapidly changing circumstances. KCDOT also challenges the Examiner's authority to award

sanctions against a Department. The applicant argues that shifting the burden of proof from appellant Allan to KCDOT would prejudice the applicant without any fault on the applicant's part.

CONCLUSIONS:

1. Any portion of the preceding findings which may be construed as conclusion is hereby adopted as such.
2. As noted in Finding No. 13, above, the burden of proof falls on the appellant in a SEPA threshold determination appeal. Considering the preponderance of the evidence, the appellant has not successfully borne that burden in this case. Considering the above findings of fact and the entire hearing record, it must be concluded that the Department's threshold determination in this matter is not clearly erroneous and therefore cannot be reversed. The following conclusions also apply:
 - a. There is no indication in the record that the Department erred in its procedures as it came to its threshold declaration of non-significance. Rather, the appellant differs with the Division's assessment of impacts or the probability of potentially adverse impacts. Speculation with respect to potential impacts cannot prove a probable significant impact that requires the responsible agency to be overruled or to alter its initial determination.
 - b. KCDOT recalculations of concurrency -- even when using both corrected and more conservative inputs -- affirm transportation concurrency. This conclusion applies as much to the validity of the transportation concurrency determination itself as it does to the SEPA threshold determination that was based, at least in part, upon the concurrency determination. The preponderance of evidence affirms the transportation concurrency for this project and therefore the validity of its concurrency certification.
 - c. Although the appellant argues that the information on which the Department based its determination was insufficient, there is no adequate demonstration that the information on which the Division based its determination is actually erroneous.
 - d. There is a substantial amount of information in the record regarding the various impacts which have been asserted by the appellant. The Division has not been unaware of these issues and has investigated (and reinvestigated) them, but has arrived at conclusions which differ from the appellant's. The Division, having had access to the variety of issues and points of view and information expressed by the appellant and others, maintains its original determination of non-significance. The Division's judgment in this case must be given substantial weight.
 - e. In view of the entire record as submitted and in view of the State Environmental Policy Act, the Division's decision is not clearly erroneous and is supported by the evidence.
 - f. Considering the wide array of environmental documents, technical review meetings and site visits conducted by the Department, errors in the Environmental Checklist cannot be

regarded as faulty analysis or error on the part of the responsible official. There is no evidence that the Department was ever "fooled" by any error or omission in the Environmental Checklist.

3. Appellant Allan's request to the examiner to prevent civil liability litigation against the County by prohibiting drainage discharge at the planned location could be addressed through RCW 58.17.110, which requires "appropriate provisions" for, among other things, "drainage ways," *if* the preponderance of evidence suggested a need to do so. That, however, is not the case. From either an environmental impact viewpoint or a civil liability viewpoint, the evidence does not support the imposition of any protective measure not already incorporated in the MDNS, project plans or conditions of final plat approval. (See Finding No. 7).
4. Based upon the whole record, and according substantial weight to the determination of environmental significance made by the Land Use Services Division, it is concluded that approval of this subdivision as recommended below would not constitute a major action significantly affecting the quality of the environment. All evidence of environmental impact relating to the proposed action and reasonable alternatives to the proposed action have been included in the review and consideration of this action.
5. If approved subject to the conditions recommended below, the proposed subdivision will comply with the goals and objectives of the Comprehensive Plan, East Sammamish Plateau Community Plan, Subdivision and Zoning Codes, and other official land use controls and policies of King County.
6. If approved subject to the conditions recommended below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare and for drainage ways, streets, other public ways, water supply, and sanitary wastes; and it will serve the public use and interest.
7. The conditions recommended in the Land Use Services Division's Preliminary Report as amended below are in the public interest and are reasonable requirements.
8. Having reviewed the sequence of events regarding requests and disclosures of evidence and having considered the testimony of parties, it is concluded that an award of sanctions would be wholly inappropriate. There is no evidence that KCDOT or any employee intentionally or neglectfully misled any party in this proceeding.

DECISION: MOTION FOR SANCTIONS. The motion of Gregory Allan for sanctions against KCDOT is DENIED.

DECISION: SEPA THRESHOLD DETERMINATION APPEAL. The SEPA threshold determination appeal of Gregory Allan is DENIED.

DECISION: TRANSPORTATION CONCURRENCY. The KCDOT transportation concurrency

determination for Ravenhill is AFFIRMED.

DECISION: PROPOSED PLAT. The proposed plat of Ravenhill, as described in Exhibit No. 7, is GRANTED preliminary approval; subject to the MDNS measures established by the Department of Development and Environmental Services on June 9, 1998, and SUBJECT FURTHER to the following conditions of final plat approval:

1. Compliance with all platting provisions of Title 19 of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication that includes the language set forth in King County Council Motion No. 5952.
3. The plat shall meet the base density of the R4-P zone classification. All lots shall meet the minimum dimensional requirements of the R4-P zone classification or shall be as shown on the face of the approved preliminary plat, whichever is larger. Minor revisions to the plat that do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services.
4. The applicant must obtain final approval from the King County Health Department.
5. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended.
6. The applicant must obtain the approval of the King County Fire Protection Engineer for the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.
7. Final plat approval shall require full compliance with drainage provisions set forth in King County Code 9.04 and the storm drainage requirements and guidelines as established by the Surface Water Management Division. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. The following conditions represent portions of the Code and requirements and shall apply to all plats.
 - a. Drainage plans and analysis shall comply with the 1990 King County Surface Water Design Manual and updates which were adopted by Public Rule effective January 1, 1995. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on

file with DDES and/or the Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."

- d. Stormwater runoff shall be provided using retention/detention standards as specified in P-suffix ESP-P19 (see Condition 19. below). Discharge from the detention facility shall be connected with the existing conveyance system along the western property boundary. Biofiltration of stormwater is also required for water quality enhancement. The runoff control facilities shall be located in a separate tract and dedicated to King County unless portions of the drainage tract are used for required recreation space in accordance with KCC 21A.14.180.

As specified in Section 4.5 of the SWDM, stormwater from roof drains shall be infiltrated or dispersed if determined to be feasible based upon the soil conditions and the project design. A soils report shall be submitted with the final engineering plans to evaluate soil conditions, seasonal depth to groundwater, and other design requirements as outlined in the SWDM.

- e. To satisfy Special Requirement No. 9 in the SWDM, a floodplain analysis shall be performed for the wetlands located in Tracts D and G. The 100-year floodplain boundaries shall be shown on the final engineering plans and recorded plat.
8. The following road improvements are required with this subdivision to be constructed according to 1993 King County Road Standards:
- a. NE 4th Street shall be improved as an urban subaccess street.
 - b. Main Street shall be improved as an urban neighborhood collector where it abuts the site. The roadway shall also be improved off-site as an urban neighborhood collector extending from Ravenhill to the existing pavement at the entry to the Beaver Dam clubhouse. As specified in KCRS 2.16, the designer shall contact Metro and the local school district to determine if designs are required for bus zones and turn outs.
 - c. Tract E shall be improved as a private access tract serving proposed Lots 15, 16, and 17. These lots shall have undivided ownership of the tract and be responsible for its maintenance. A note to this effect shall be shown on the face of the final plat. Improvements shall conform to KCRS 2.03 for urban minor access roads, which includes 22 feet of paving. The minimum tract width shall be 26 feet with a maximum length of 150 feet.
 - d. Modifications to the above road conditions may be considered by King County pursuant to the variance procedures in KCRS 1.08.
9. There shall be no direct vehicular access to or from Main Street from those lots which abut it.

A note to this effect shall appear on the engineering plans and final plat.

10. Street trees shall be provided as follows:

- a. At a minimum, trees shall be planted at a rate of one tree for every 40 feet of frontage along Main Street. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
- b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless the King County Department of Transportation determines that trees should not be located in the street right-of-way.
- c. If King County Transportation determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
- d. The trees shall be owned and maintained by the abutting lot owners or the homeowners' association or other workable organization unless the County has adopted a maintenance program. This shall be noted on the face of the final recorded plat.
- e. The species of trees shall be approved by DDES and if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
- f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
- g. The applicant shall contact Metro Service Planning at (206) 684-1622 to determine if Main Street is on a bus route. If Main Street is on a bus route, the street tree plan shall also be reviewed by Metro.
- h. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.

A landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current County fees.

11. Preliminary plat review has identified the following specific sensitive area requirements which apply to this project. All other applicable requirements from KCC 21A.24 shall also be addressed by the applicant:

- a. The Class II wetlands shall have a buffer width of 50 feet, measured from the wetland edge. Buffer averaging is acceptable so long as the provisions of KCC 21A.24.320B are satisfied. Impacts to the wetland located in Tract D will require appropriate mitigation as specified in subsection f. below.
 - b. The wetlands and their respective buffers shall be placed in Sensitive Area Tracts (SAT).
 - c. A minimum building setback line of 15 feet shall be required from the edge of the SAT.
 - d. The wetland and sensitive area tract(s) shall be delineated and signed in accordance with KCC 21A.24.160. The sign details shall be shown on the engineering plans.
 - e. A final enhancement/mitigation plan must be submitted for review and approval by DDES along with the engineering plans for this proposal. The plan must include proposed final grades, hydrology, construction and monitoring notes and a detailed planting plan, showing species, site location
 - f. Mitigation required pursuant to this project must be completed prior to final approval. If this is not possible, due to seasonal requirements or other circumstances beyond the applicant's control, the applicant may post a performance bond that guarantees that all required mitigation measures will be completed within one-year of plat construction.
 - g. Once mitigation work is completed to DDES's satisfaction, the performance bond may be replaced by a maintenance bond in a form and amount sufficient to guarantee satisfactory workmanship, materials and performance of the approved plan for a period of five years.
 - h. Upon satisfactory completion of the final monitoring inspection, DDES staff shall release the maintenance bond. If the project has not met the established performance standards at the end of the monitoring period, the applicant shall be responsible for the preparation and implementation of a contingency plan to remedy the situation.
12. Tract F: A designated wildlife habitat corridor, as adopted by the 1994 King County Comprehensive Plan, crosses that portion of the site included in Tract F (see Attachment 2 for approximate location of the wildlife corridor). Tract F shall therefore be labeled on the final plat as "Open Space and Wildlife Habitat Network Tract." Tract F shall be dedicated with the recording of the plat, and the following note shall be placed on the tract:
- "That portion of the subject property with an open space land use designation shall remain uncleared and be placed into a contiguous permanent open space. Use shall be limited to public, non-motorized outdoor recreation. Any alteration to the site such as, but not limited to, clearing, grading, trail construction, and timber removal are subject to King County Codes and King County Parks and other relative King County agencies for review and approval."
13. The proposed subdivision shall comply with the Sensitive Areas Ordinance as outlined in KCC 21A.24. Permanent survey marking, and signs as specified in KCC 21A.24.160 shall also be addressed prior to final plat approval. Temporary marking of sensitive areas and their buffers (e.g., with bright orange construction fencing) shall be placed on the site and shall remain in

place until all construction activities are completed.

14. The following note shall be shown on the final engineering plan and recorded plat:

**RESTRICTIONS FOR SENSITIVE AREA TRACTS AND
SENSITIVE AREAS AND BUFFERS**

Dedication of a sensitive area tract/sensitive area and buffer conveys to the public a beneficial interest in the land within the tract/sensitive area and buffer. This interest includes the preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The sensitive area tract/sensitive area and buffer imposes upon all present and future owners and occupiers of the land subject to the tract/sensitive area and buffer the obligation, enforceable on behalf of the public by King County, to leave undisturbed all trees and other vegetation within the tract/sensitive area and buffer. The vegetation within the tract/sensitive area and buffer may not be cut, pruned, covered by fill, removed or damaged without approval in writing from the King County Department of Development and Environmental Services or its successor agency, unless otherwise provided by law.

The common boundary between the tract/sensitive area and buffer and the area of development activity must be marked or otherwise flagged to the satisfaction of King County prior to any clearing, grading, building construction or other development activity on a lot subject to the sensitive area tract/sensitive area and buffer. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the sensitive area are completed.

No building foundations are allowed beyond the required 15-foot building setback line, unless otherwise provided by law.

15. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
16. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid;" if the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
17. Suitable recreation space and facilities shall be provided consistent with the requirements of KCC 21A.14.180 and 190. The applicant will provide 11,326 s.f. of recreation space within Tract

B, with access from the plat provided by a pedestrian easement across Tract B from NE 4th Street. A recreational facilities plan shall be submitted to and approved by DDES and the King County Parks Department prior to engineering plan approval.

18. A homeowner's association or other workable organization shall be established to the satisfaction of DDES to provide ownership and continued maintenance of the recreation facilities, associated landscaping, and sensitive areas tracts (within the urban area only).
19. The following conditions shall apply to implement the P-suffix conditions to this property:

ESP-P19 (Surface Water Retention/Detention Requirements): Stormwater facilities shall be designed to reduce the post-development flow durations to their pre-developed levels for flows greater than fifty percent of the 2-year event and less than the 50-year event. In addition, the 100-year post-development peak flow shall be reduced to pre-development levels. A calibrated continuous flow simulation model, such as HSPF, shall be used for this design analysis. If a continuous model cannot be used, the method of the 1990 King County SWDM may be used with the 24-hour design event if the facilities are designed so that the post-development 2-year storm event is released at one-half of the pre-developed 2-year rate; and the post-development 100-year storm event is released at the pre-developed 10-year rate.

ESP-P20 (Seasonal Clearing and Grading Restrictions): Clearing and grading shall not be permitted between October 1 and March 31. All bare ground must be fully covered or revegetated between these dates. Deviations from these standards may be allowed based on a special study prepared by a qualified forester with expertise in windthrow or tree disease. Certain exemptions apply for such situations as emergencies and routine maintenance of public agency facilities.

ESP-P28 (Ravenholt 4-to-1): The applicant shall designate and dedicate the required permanent open space to King County concurrent or prior to the final recording of the subdivision.

20. Lots within the Ravenhill subdivision are subject to King County Ordinance 10162 and Ordinance 12532, which imposed impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat received final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
21. **SEPA Mitigation Measures**: These mitigation measures are consistent with policies, plans, rules or regulations designated by KCC 20.44.080 as a basis for the exercise of substantive authority and in effect when this threshold determination is issued. Key sources of substantive authority for each mitigation measure are stated in the MDNS. Other sources of substantive authority may exist but are not expressly listed. King County Comprehensive Plan Policies T-101 to T-901.
 - a. In order to assure an equitable sharing of the costs associated with the ultimate, planned road improvements for the SE 8th Street/244th Avenue SE corridor between 228th Avenue SE and NE 8th Street, the applicant shall pay a pro-rata share towards the construction

and widening of the SE 8th Street/244th Avenue SE corridor, consistent with the developers' portion of CIP Projects 201397 and 200797.

- b. If at the time of final plat recording, a new MPS fee schedule that includes the SE 8th Street/244th Avenue SE corridor is adopted, and the applicant chooses to pay MPS fees at the time of building permit approval, a pro-rata share payment will not longer be required at the time of final plat approval.
- c. Because of water quality concerns in Patterson Creek, the engineer shall design the storm drainage system with features:
 - to maintain low temperatures in site runoff by shading, selection of construction materials, pool orientation and/or other means; and
 - to enhance dissolved oxygen replenishment in stormwater runoff by use of fountains, cascades, or other means before discharge into tributaries of Patterson Creek.
- d. Springs and seeps intercepted during site development shall, to the maximum extent practical, be maintained as subsurface inputs to the Patterson system.
- e. A geotechnical consultant shall prepare a plan to redirect and reconstruct such groundwater features so that minimal disruption of spring and seep input occurs. The plan shall be submitted for review and approval during preliminary engineering.
- f. The geotechnical consultant shall also be present during site grading to identify seeps and tailor the plan as needed.

ORDERED this 28th day of January, 1999.

R. S. Titus, Deputy
King County Hearing Examiner

NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) on or before February 11, 1999. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council on or before February 18, 1999. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if

actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE OCTOBER 12, OCTOBER 13, NOVEMBER 20, AND DECEMBER 18, 1998 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT & ENVIRONMENTAL SERVICES FILE NO. L97P0020 - RAVENHILL:

R.S. Titus was the Hearing Examiner in this matter. Participating in the hearing were Paul Wozniak, Keri Akers, Barbara Heavey, Greg Borba, Pete Dye, Kim Claussen, Aileen McManus, Laura Casey, Dick Etherington, David Mark, Robert Johns, Keith Goldsmith, Joe Savage, Greg Allan, Rick Aramburu, Nadine Zackrisson, Mike Miller, Vic Bishop, and Amanda Azous.

The following exhibits were offered and entered into the record:

Entered October 12, 1998:

- Exhibit No. 1 Department of Development and Environmental Services File No. L97P0020
- Exhibit No. 2 Department of Development and Environmental Services Preliminary Report to the Hearing Examiner for the October 12, 1998 public hearing
- Exhibit No. 3 Application dated May 12, 1997
- Exhibit No. 4 Environmental Checklist dated May 12, 1997
- Exhibit No. 5 Mitigated Declaration of Non-Significance dated June 9, 1998
- Exhibit No. 6 Affidavit of Posting indicating June 23, 1997 as date of posting and June 27, 1997 as date affidavit was received by DDES
- Exhibit No. 7 Preliminary plat drawing dated May 12, 1997
- Exhibit No. 8 Land Use Map Kroll page 932W
- Exhibit No. 9 Assessor's Maps 35-26-06
- Exhibit No. 10 Level 1 Drainage Analysis, May 12, 1997
- Exhibit No. 11 Terra Associates Wetland Evaluation, May 12, 1997
- Exhibit No. 12 Proposed Wetland Buffer Averaging, October 7, 1997
- Exhibit No. 13 Wetland Mitigation Concept, October 7, 1997
- Exhibit No. 14 Memo from Keith Goldsmith, P.E., May 12, 1997
- Exhibit No. 15 Certificate of Transportation Concurrence, May 12, 1997
- Exhibit No. 16 Traffic Impact Analysis, April 9, 1997
- Exhibit No. 17 Supplemental Traffic Impact Analysis, October 7, 1997
- Exhibit No. 18 Topographical Survey, March 10, 1997
- Exhibit No. 19 King County Comprehensive Plan, I-204 and I-205
- Exhibit No. 20 P-suffix conditions ESP-P19, -P20, -P28
- Exhibit No. 21 Gregory R. Allen SEPA Appeal, E98E0630
- Exhibit No. 22 SEPA File E97E0085
- Exhibit No. 23 Excerpt from 1995 Comprehensive Plan Amendment
- Exhibit No. 24A Letter to Examiner from Gregory Allan, with attachments

Exhibit No. 24B Preliminary Plat Drawing for Beaver Dam

Entered October 13, 1998:

Exhibit No. 25 School Capacity Information from Lake Washington School District

Entered November 20, 1998:

Exhibit No. 26 DDES Staff's modification to Recommended Condition No. 8b

Exhibit No. 27 Plat map with drainageway highlighted in blue

Exhibit No. 28 Letter from Jerri Shinn to Examiner dated November 19, 1998

Exhibit No. 29 Print-out from disk labeled ME2 databank network for Ravenhill

Entered December 18, 1998:

Exhibit No. 30A Replicate Run for Transportation Concurrency Application for Ravenhill, October 8, 1998, with technical analysis & certification attached

Exhibit No. 30B Map of Concurrency Zones in East Sammamish Planning Area

Exhibit No. 30C KCDOT Rerun of Ravenhill TCM Analysis, December 7, 1998

Exhibit No. 30D Declaration of William G. Hoffman, P.E., with 3 attachments

Exhibit No. 30E Transportation Concurrency Application, with technical analysis, May 1996

Exhibit No. 31A Report by Joe Savage, Jr., P.E. on Ravenhill Concurrency Test, November 16, 1998

Exhibit No. 31B See Exhibit Nos. 30A and 30E

Exhibit No. 31C Ravenhill Concurrency Test -- highlights of Exhibit 31A

Exhibit No. 31D Map depicting first run distribution assumption

Exhibit No. 31E Partial summary of trip generation spreadsheets for The Greens and original Ravenhill runs, from KCDOT

Exhibit No. 31F Network map showing connection of Ravenhill to arterials for December 7, 1998 retest, trip distribution assumption

Exhibit No. 31G Summary of land use for The Greens, Ravenhill (October 8, 1998) and Ravenhill (December 7, 1998)

Exhibit No. 31H TCM Summaries -- Total Volume Plots

Exhibit No. 31I Comparison of 1997 and Ravenhill 2002 projected traffic volumes

Exhibit No. 31J Resume of Joe P. Savage, Jr., P.E.

Exhibit No. 31K King County Traffic Model, excerpt, direct testimony by KCDOT at The Greens hearing

Exhibit No. 31L E-mail dated November 30, 1998, from Rob McKenna to Craig Dickison

TRANSMITTED this 28th day of January, 1999, to the following parties and interested persons:

Kazoko & Bill Acar	James Jordan	Robert Seana
Greg Allan	John & Cathy Kaschko	Seattle-King County Health
Debra Anderson	Bob & Shannon Keller	Department
Richard Aramburu	King Conservation District	Jerri & Sherwin Shinn
Amanda Azous	Datia Kurkijy	Penny Short
Jack & Jennifer Bauer	Dave Lerner	Mark Smith
Joseph Beer	Francis J Lill	Patty & Greg Smith
Victor Bishop	Paula Lillevand	Mary & Tom Spencer
Robert Brady	Arlene & Todd Lovell	Ilene Stahl
Les Brisbois	Andrea & Paul Martin	Brian & Sharon Steinbis
Lawrence F Brown	Linda Matlock	Kathleen Steoger
Joanna Buehler	Greg McCormick	Wayne Stewart
Anita Burkholder	Michael Miller	Liz Tickman
Jon & Donna Carlson	Dave & Leslie Miniken	Eric Tingstad
Kyle & Evelyn Coffey	Michael Monroe	Jerry Vanhook
Richard A. Cook	Debra & James Montgomery	D.L. Vittetoe
Craig Dickison	Eleanor Moon	Janet Wall & Ruth Morgan
Roger Dorstad	Brian Moore	Victoria Ward
Vali Eberhardt	Ben Muzzey	Clinton Webb
Kathy Edens	Robert Nason	Richard Wilson
Becky Edwards	New Home Trends	Cory & Mary Lou Wolfe
Evelyn Ferrier	Andy Olney	Nadine Zackrisson
G Robert Flynn	Dan & Audrey Oxley	Keri Akers
Sharon Freechtle	Pacific Motion	Greg Borba
Lee & Mary Geil	Dorothy & Ed Parker	Steve Bottheim
John & Debra Gibbons	Steve Parmelee	Laura Casey
Rick Gibbons	Tom Perricone	Kim Claussen
Keith Goldsmith	Raymond & Joan Petit	Pete Dye
Judith Hamilton	Doug & Andrea Phillips	Dick Etherington
Scott Hamilton	Charlene & Terry Plimpton	Jeroldine Hallberg
Tom & Jeanne Harman	Nick & Suzy Repanich	Barbara Heavey
Nancy Herrig	Mara Rigel	Lanny Henoeh
Skip Holman	Helen & Jesse Rondestvedt	Michaelene Manion
Alan Huibregtse	Dwight & Mary Roof	David Mark
James & Therese Hutchins	Jill Routt	Aileen McManus
Robert Iness	Robert & Margaret Rowe	Carol Rogers
Cris Irons	Nancy Ryan	Kate Stenberg
David & Janet Irons	Alfred & Vivian Sauerbrey	Steven C. Townsend
John L Scott Land Department	Joe Savage	Caroline Whalen
Robert Johns	Deb Schaefer	Paul Wozniak

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